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10/600,298	06/20/2003	Julian N. Nikolchev	016355-002580US	6671

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EXAMINER

BROWN, MICHAEL A

ART UNIT	PAPER NUMBER
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3772

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 107, 109-111 and 113-116 are rejected under 35 U.S.C. 102(b) as being anticipated by Phelps '259.

Phelps discloses in figures 1-12 a contraceptive device for occluding a fallopian tube to inhibit conception comprising a proximal end and a distal end, wherein the device is substantially straight between the proximal end and the distal end (a catheter), a tubular structure 136, having a first end 138, a second end 140, an a lumen (the longitudinal opening in 136), extending therein, the tubular structure expandable within the fallopian tube from a first configuration to a second larger configuration (shape memory material, Nitinol, allows expansion), a tissue ingrowth 130, wound into the tubular structure, the tissue ingrowth element inciting tissue growth that can occlude the fallopian tube, the ingrowth material is radially wound into the tubular structure (braids provide radially woundings), the tissue ingrowth element is a fiber (Dacron strands), the fibers comprise polyester (nylon), the fibers have several layers of winds (braids), the fiber is wound between windings (braids inside of braids) of the tubular structure and the first configuration is a first diameter and the second larger configuration is a second larger diameter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 108 and 112 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phelps '259 in view of Mariant.

Phelps discloses in figures 1-12 a contraceptive device, substantially as claimed. However, Phelps doesn't disclose the tubular structure being disposed around an inner coil or the fiber being in the form of a felt. Mariant teaches figures 1-5 a contraceptive comprising a coil 11, having the combination of a braid or tubular member or both formed into the coil. It would have been obvious to one having ordinary skill in the art that the combination of a coil inside of the tubular member as taught by Mariant could be incorporated into the coil disclosed by Phelps in order to add rigidity to the tubular member via having the coil therein. Forming the fiber of a felt is a design choice that would inhibit tissue ingrowth.

Response to Arguments

Applicant's arguments with respect to claims 107-116 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL BROWN whose telephone number is (571)272-4972. The examiner can normally be reached on 5:30 am-4:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3772

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Brown/
Primary Examiner, Art Unit 3772